

**TENNESSEE  
COLLECTION SERVICE BOARD  
MINUTES**

**DATE:** September 15, 2009

**PLACE:** Andrew Johnson Tower – 2<sup>nd</sup> Floor Conference Room  
710 James Robertson Parkway  
Nashville, Tennessee

**PRESENT:** Board Members:  
Bart Howard, Chairman  
Elizabeth Trinkler  
James Mitchell  
Worrick Robinson arrived at 10:00 a.m.

**PRESENT:** Staff Members:  
Donna Hancock, Director  
Terrance Bond, Staff Attorney  
Judy Elmore, Administrative Assistant

**GUESTS:**

**CALL TO ORDER:**

Chairman Howard called the meeting to order and the following business was transacted:

Director Donna Hancock called the roll.

The first order of business was to elect a Chairman and Vice-Chairman.

Chairman Howard opened the floor for nominations for Chairman. Elizabeth Trinkler made the motion and it was second by James Mitchell to nominate Bart Howard for Chairman. There being no other nominations Bart Howard was re-elected as the Chairman by acclamation.

Chairman Howard opened the floor for nominations for Vice-Chairman. Chairman Howard made the motion and it was seconded by James Mitchell to nominate Elizabeth Trinkler as Vice-Chairman. There being no other nominations Elizabeth Trinkler was re-elected as Vice Chair.

## **ANNOUNCEMENT**

Donna Hancock congratulated Elizabeth Trinkler and Bart Howard had been re-elected. She also congratulated Attorney Terrance Bond, for receiving a promotion in his job title and for being elected to the NACARA Board as an Executive Board Member.

## **ADOPT AGENDA**

**MOTION** was made by James Mitchell, seconded by Elizabeth Trinkler, to adopt the meeting agenda as presented.

**MOTION CARRIED**

## **MINUTES**

Chairman Howard asked that some issues in the complaint report from the June 30, 2009 be re-reviewed. He stated he was not clear on some of the civil penalty fees. Attorney Bond clarified the civil penalty fees. No changes were recommended to the minutes.

**MOTION** was made by Elizabeth Trinkler and seconded by James Mitchell to approve the minutes of June 30, 2009.

**MOTION CARRIED.**

## **LEGAL REPORT---TERRANCE BOND, STAFF ATTORNEY**

Attorney Bond presented the Board with an email from Attorney David Cherner, Legal Counsel for Director of State Government Affairs ACA International, regarding the editor's note pertaining to the clarification on Debt Buyers. This was deferred until later in the meeting.

The next item presented by Attorney Bond was a request from Equinox Financial Management Solutions, Inc. for an interpretation as to whether Equinox is required to become a licensed collection agency license before operating in Tennessee.

Equinox will be collecting consumer debt for their client, which purchases debt and administers the recoveries out of New York. The company does not have any business operation or offices located within Tennessee. The Board asked Attorney Bond to respond to this request and refer the agency to the Statute.

Attorney Bond also presented a request for an exemption from RealServ., Inc. They stated their business would be limited to collect by interstate means only, will not solicit business, will not have a client located or headquartered within Tennessee and will not have physical presence within Tennessee.

**MOTION** was made by Elizabeth Trinkler and seconded by James Mitchell for Mr. Bond to contact this agency and inform them there is not enough information with the request and that the Collection Service Board does not issue exemption letters.

**MOTION CARRIED**

Attorney Bond also presented a request for an exemption from Weinerman & Associates, LLC. They also stated their business would be limited to collecting by interstate means only, will not solicit business, will not have a client located or headquartered within Tennessee and will not have physical presence within Tennessee.

**MOTION** was made by Elizabeth Trinkler and seconded by James Mitchell for Mr. Bond to contact this agency and inform them there is not enough information with the request and that the Collection Service Board does not issue exemption letters.

**MOTION CARRIED**

The next item presented by Attorney Bond was an email from David G. Morrissey, Director of Development for KeyBridge Medical Revenue Management regarding operating as an extension of a healthcare provider's business office. He stated they would assist clients in the management of their accounts before they are deemed to be bad debt. They will be represented to the consumer as if they are actually the provider. Upon discussion the Board's determination was that as long as KeyBridge Medical Revenue Management is working strictly for the provider they do not have to have a license.

**MOTION** was made by Elizabeth Trinkler and seconded by James Mitchell for Attorney Bond to respond to this request and cite the Statute for "exemptions".

**MOTION CARRIED**

**BRANCH OFFICES**

Attorney Bond presented a letter from Joy Chamlee, Licensing Specialist from Cornerstone Support, Inc. requesting an opinion for Branches to be licensed as collection agencies. Attorney Bond stated he keeps going to T.C.A. 62-20-108(a)(1).

Chairman Howard stated at one time the Board was requesting each individual office to be registered. He stated that he thought there was someone that objected to the requirement and stated that he thought there was an Attorney General's opinion issued on whether branch offices have to be licensed in Tennessee regardless of where they are located.

After further discussion the Board asked Attorney Bond to research this and report back to them.

**EXEMPTION REQUEST**

Attorney Bond also presented a request for an exemption from The Schreiber Law Firms, LLC. They stated that as attorneys they are not required to file for a collection agency license in Tennessee.

**MOTION** was made by Elizabeth Trinkler and seconded by James Mitchell for Mr. Bond to contact this Law Firm and inform them that the Collection Service Board does not issue exemption letters and reference them to T.C.A. 62-20-103(a)(2).

**MOTION CARRIED**

**MOTION** was made by Elizabeth Trinkler and seconded by Worrick Robinson to revisit the email from David Cherner regarding Debt Buyers.

A closer review of the Editor's Note in Mr. Cherner's letter indicated the need for clarification.

**MOTION** was made by Elizabeth Trinkler and seconded by Worrick Robinson for Attorney Bond to write Mr. David Cherner regarding the Board's interpretation of the ruling on the action of a debt buyer and to clarify this matter and bring back to the Board.

**MOTION CARRIED**

**MOTION** was made by Worrick Robinson and seconded by James Mitchell to revisit the request from Equinox Financial Management Solutions, Inc.

**MOTION** was by Worrick Robinson to inform this agency that they must be licensed in Tennessee. The motion failed for lack of second.

**DISCLAIMER**

This Board is not responsible for the contents of the legal report. The report is compiled and presented to the Board by Assistant General Counsel, Terrance Bond.

**COMPLAINT REPORT**

1. 200901073-1

The Complainant requests assistance in resolving her dispute with the Respondent, who alleged that she owed a past due account. The Complainant received a collection notice from the Respondent, to which she responded twice in writing, requesting validation of the alleged past due account. According to the Complainant, she never received any response from the Respondent to either of her written requests. The Respondent states that it was unable to obtain validation of the debt, and that it ceased all communication with the Complainant once it received her request for validation.

**Recommendation: Close with no action.**

**BOARD: Approved.**

2. 200901169-1

The Complainant mailed correspondence to the Consumer Affairs Division, which was forwarded to the office, indicating that he sent notice to the Respondent that the account that they were contacting him about had been paid years before. The Respondent indicates that it closed the collection account and returned same to its client after receiving written notice from the Complainant.

**Recommendation: Close with no action.**

**BOARD: Approved.**

3. 200901232-1

The Complainant alleges the Respondent is pursuing him for a past due account that he should not owe. Complainant documents eight (8) conversations between the Respondent and himself and/or his employees concerning the allegedly past due account. The Respondent failed to respond to the complaint, despite accepting service of same on July 29, 2009.

*Prior History*

2006- unlicensed activity (2 case numbers which were combined, settlement offered by Consent Order and \$500.00 civil penalty, settlement entered on 7/28/06.)

**Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$9,000.00 civil penalty.**

**BOARD: Approved.**

4. 200901233-1

The Complainant provided a copy of correspondence he mailed to the Respondent, a first-party creditor, registering his dissatisfaction with services rendered and demanding that the Respondent take possession of the equipment it provided pursuant to the service contract. Respondent states that it has honored the Complainant's request.

**Recommendation: Close with no action.**

**BOARD: Approved.**

5. 200900743-1

The Complainant alleges that the Respondent, who appears to be a law firm, made several threatening calls to her, during which Respondent threatened to have her arrested and may have impersonated a representative of the local court system. The Respondent failed to respond to the complaint, despite accepting service of same on April 25, 2009.

**Recommendation: Refer the complaint to the State Board of Professional Responsibility in Respondent's state of licensure.**

**BOARD: Approved.**

6. 200900642/3-1

Board approved settlement by Consent Order and civil penalty of \$2,000.00 against the Respondent upon allegations that the Respondent failed to respond to a consumer complaint filed with the office and that the Respondent failed to provide the

Complainant with an initial collection notice within five (5) days of the initial communication with the Complainant. The Respondent provided satisfactory proof (i.e., a delivery confirmation receipt) that it responded timely. The Respondent also provided account notes indicating that it did issue a notice of collection to the Complainant, which was not returned, prior to initiating contact with the Complainant.

**Recommendation: Rescind the offer of settlement and close the file with no further action.**

**BOARD: Approved.**

7. 200900641-1

The Complainant alleges that he receives calls from multiple collection agencies, including the Respondent, seeking an individual who had previously been assigned his [Complainant's] current telephone number. The Complainant alleges that the Respondent called him twice during one day; during the second call, the Complainant indicated that he was not the requested party. The Complainant states that he declined to provide his name to the Respondent when she requested his name. The Respondent states that it cannot locate the name of the consumer the Complainant identified and suggests that the Complainant may have misunderstood the name of the consumer at the time of the request. The Complainant failed to provide a telephone number on the complaint form he submitted, so I could not research his contact information against the Respondent's records.

**Recommendation: Close with no action.**

**BOARD: Approved.**

8. 200901676-1

The Complainant alleges that the Respondent has called him daily and used abusive language while trying to collect the allegedly past due account of an allegedly deceased party. The Respondent provided account notes indicated that the Complainant's number was called four (4) times—three (3) of such calls did not result in successful contact. During the one (1) successful call, the Respondent's notes indicate that an unidentified man stated that the party sought was not deceased. The Respondent's notes also indicate that the account was returned to its client two (2) days following the call to the Complainant's telephone number.

**Recommendation: Close with no action.**

**BOARD: Approved.**

9. 200900619-1

The Complainant alleges the Respondent has contacted her against her wishes concerning an account which belonged to her mother, who is deceased. The Complainant provided a copy of a letter she mailed to the Respondent stating that she did not feel she was responsible for the account and that she was not her mother's conservator [sic].

Respondent states that they contacted the Complainant shortly after the account was placed, and that the Complainant informed them that the account had been filed with probate and that the account would be paid when the estate was settled. The Respondent states further that after receiving the Complainant's letter several months after its initial conversation with her, that it informed its client of the circumstances and that it returned the account to the client at the client's request.

**Recommendation: Close with no action.**

**BOARD: Approved.**

10. 200900281-1

The Complainant alleges that the Respondent failed to provide verification of a debt they were attempting to collect from him. The Complainant provided copies of two (2) requests it mailed to the Respondent requesting that the Respondent furnish proof that the debt was owed. In response to the Complainant's request, the Respondent provided a written statement entitled "confirmation of outstanding balance", in which the Respondent provided the name of the alleged creditor, the alleged outstanding balance as well as a demand for payment from the Complainant. The Respondent states that it did not provide verification to the Complainant because its client failed to respond to its requests for verification documents. The Respondent states further that the Complainant's account was immediately closed after its client failed to respond to its verification requests.

**Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$500.00 civil penalty.**

**BOARD: Approved.**

11. 200900282-1

The Complainant alleges that the Respondent continues to dun him concerning an account that he has satisfied in full. The Complainant states that he provided the Respondent an electronic copy of his payment to the creditor. Further, the Complainant states that he is willing to provide the Respondent additional copies of the checks, if such are needed, but states that he will charge the Respondent a fee if such items must be obtained. The Respondent states that the document it received from the Complainant was a bank statement that did not show who cashed the check that the Complainant

allegedly issued. Further, the Respondent states that an inquiry was submitted to its client after the Complainant submitted the bank statement. According to the Respondent, the client indicated that the account was still due. The Respondent also stated that it does not pay for copies of checks, but would be happy to research the account and resolve the issue of payment if the Complainant will provide them with a copy of the front and back of a canceled check to the creditor.

**Recommendation: Close with no action.**

**BOARD: Approved.**

12. 200901018-1

The Complainant alleges that the Respondent is pursuing him regarding a past due account that he has satisfied in full. The Respondent states that it received both a copy of a check from the Complainant to the agency that previously held the account as well as a letter from that agency offering settlement to the Complainant. The Respondent states that the client advised that settlement was not completed and that a past due balance remained. The Respondent further states that its client advised that the balance had been adjusted to zero and that collection efforts should cease and that any negative credit information previously reported should be deleted. The Respondent states that it honored its client's request.

**Recommendation: Close with no action.**

**BOARD: Approved.**

13. 200901015-1

The Complainant alleges that the Respondent attempted to collect a debt from him that was discharged in bankruptcy. The Respondent states that it was unaware of the bankruptcy at the time the collection notice was sent because of a discrepancy between the spelling of the Complainant's last name on its records and the spelling of the Complainant's last name on the petition. Documents submitted by the Complainant do show inconsistent spellings of the Complainant's last name [the Complainant spelled his last name with an additional vowel on the Complaint form he completed while the extra letter was omitted from the spelling of the Complainant's name on the bankruptcy petition.] The Respondent states that it closed the account and returned it to its client upon receipt of notice from the Complainant of the discharge.

**Recommendation: Close with no action.**

**BOARD: Approved.**



14. 200802594-1

The Complainant alleges that the Respondent threatened to garnish her wages in an effort to collect an allegedly past due account from her. Complainant also states that the Respondent contacted her father concerning the past due account. The Respondent failed to respond to the complaint, despite accepting service of same on December 3, 2008.

**Recommendation: Authorize formal hearing with authority to settle by Consent Order and \$1,000.00 civil penalty.**

**BOARD: Change the civil penalty to \$2,000.00.**

15. 200802593-1

The Complainant alleges that the Respondent contacted her several times and requested to speak to a person that she does not know. Respondent stated that the Complainant, who has a very similar name to the party they were seeking, was being contacted as a result of erroneous information they received during a search for good contact information for the consumer. The Respondent states that the Complainant's number has been marked "DO NOT CALL" in their records.

**Recommendation: Close with a letter of warning re: acquisition of location information.**

**BOARD: Approved.**

16. 200901059-1

The State Attorney General's Office and the Department of Human Services have provided information indicating that this company, which appears to be a payday lender, is engaging in harassing and other unsavory business practices within the State of Tennessee.

**Recommendation: Contact the Attorney General for the State of Nevada and recommend investigation/appropriate action.**

**BOARD: Approved.**

17. 200900775-1

The Complainant alleges that the Respondent continued collection activity against after receiving notice that he disputed the debt that Respondent was attempting to collect.

The Complainant provided a copy of a letter that he mailed to the Respondent by certified mail [receipt of which is acknowledged by the Respondent] indicating that he disputed the validity of the debt and requesting documentation that would prove he was obligated to the creditor. Approximately seven (7) days following receipt of the Complainant's letter, Respondent placed two (2) collection calls to the Complainant. Respondent admits to communication with the Complainant following receipt of his written dispute, but states that no phone calls have been placed to the Complainant since the date of the above-referenced calls. The Respondent states that it did eventually provide the Complainant with the documents he requested. According to the Respondent, the Complainant's alleged account is now closed and has been returned to the creditor.

**Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$2,000.00 civil penalty.**

**BOARD: Approved.**

18. 200802260-1

The Complainant states that Respondent threatened him with jail time concerning allegedly past due accounts that the Respondent was attempting to collect from him. Respondent states that it did not threaten the Complainant with jail time regarding the accounts, but that it did inform him that it would request that its client file civil warrants against the Complainant if the past due accounts were not paid. The original recommendation was to dismiss the complaint. The board voted to defer a ruling and request copies of letters that the Respondent typically sends to consumers facing potential litigation.

**Recommendation: Discuss.**

**BOARD: Defer until November meeting. Communicate with agency head regarding letters sent to debtors.**

19. 200901009-1

The Complainant states that the Respondent demanded a payment arrangement from him that he could not fulfill and then terminated three (3) successive calls with him after humiliating him concerning his past due account. The Respondent denies the Complainant allegations and states that the Complainant had failed to honor payment arrangements on several occasions. The Respondent also provided account notes which indicate that the Complainant only spoke to one (1) individual on the date he alleges the three (3) prematurely terminated calls occurred. The notes also indicate that on that date, the Complainant entered into another payment arrangement with the Respondent.

**Recommendation: Close with no action.**

**BOARD: Approved.**

20. 200900575-1

The Complainant, who is a resident of Alabama, alleges that the Respondent, who is licensed in Tennessee but operates from a location within the State of Alabama, alleges that the Respondent made material and fraudulent alterations to a contract he entered into in order to justify its collection efforts against him. Respondent failed to respond to the complaint, despite accepting service of same on December 5, 2008.

**Recommendation: Refer complaint to prosecuting authorities in Alabama for review. Discuss whether a civil penalty settlement should be authorized for failure to respond.**

**BOARD: Approved.**

#### **ADMINISTRATIVE ISSUES---DIRECTOR, DONNA HANCOCK**

Ms. Hancock and Attorney Bond presented the Board with a report of open complaints. Ms. Hancock explained that her office is experiencing technical difficulties in obtaining correct data regarding pending complaints but that Information Systems is working on the problem.

#### **NEW AGENCY APPLICATIONS REVIEW**

##### **COFACE COLLECTIONS NORTH AMERICA, INC.**

Coface Collections North America, Inc. has submitted an application for a new agency. The application is being presented due to the pending litigation in other states and the financial statement.

**MOTION** was made by Worrick Robinson and seconded by Elizabeth Trinkler to defer approval of the application until November 3, 2009 and instructed Attorney Bond to ask for updated case information.

**MOTION CARRIED.**

##### **FIRST INVESTORS SERVICING CORP. dba 1ST INVESTORS SERVICING CORP.**

First Investors Servicing Corp. dba 1st Investors Servicing Corp. is being presented due to pending litigation in other states and the financial statement.

**MOTION** was made by Worrick Robinson and seconded by James Mitchell to defer approval of the application until November 3, 2009 and instructed Attorney Bond to ask for updated case information.

**MOTION CARRIED.**

##### **KONDAUR CAPITAL CORPORATION**

The application for Kondaur Capital Corporation is being presented due to the litigation in other states. **MOTION** was made by Elizabeth Trinkler and seconded by James Mitchell to approve the issuance of this license.

**MOTION CARRIED.**

### **SUMMIT RECEIVABLES, LLC**

Summit Receivables, LLC is being presented due to the financial statement.

**MOTION** was made by Worrick Robinson and seconded by Elizabeth Trinkler to defer approval of the application until November 3, 2009 and instructed Attorney Bond to ask for the 3rd quarter financial information.

**MOTION CARRIED.**

### **APPLICATION REVIEW—DETERMINE ELIGIBILITY FOR TESTING/LICENSING**

#### **JOHN AMIN CAFIERO**

Mr. Cafiero's application was presented to the Board for review of his credit report to determine his eligibility to take the Tennessee Location Manager examination. He also answered "no" to the question on the application; "Have you ever had accounts placed with an Attorney or Collection agency for collection"?

**MOTION** There was no motion made on this application.

#### **SARAH KATHERINE HOOD**

Ms. Hood's application was presented to the Board for review of her credit report to determine her eligibility to take the Tennessee Location Manager examination

**MOTION** There was no motion made on this application.

#### **ALAN MINARD**

Mr. Minard's application was presented to the Board for review, due to his credit report, to determine his eligibility to take the Tennessee Location Manager examination. He also answered "no" to the question on the application; "Have you ever been denied a license by the Tennessee Collection Service Board"? He was denied approval to take the exam in 2008, and he also answered "no" to the question "Have you ever had accounts placed with an Attorney or Collection agency for collection"?

**MOTION** There was not motion made on this application.

#### **KUMAR SURESH**

Mr. Kumar's application was presented to the Board for review, due to him submitting a "Cibill" report instead of a credit report, to determine his eligibility to take the Tennessee Location Manager examination. The applicant is from India and India does not prepare and provide credit reports.

**MOTION** was made by Worrick Robinson and seconded by Elizabeth Trinkler to defer until November 3, 2009 and asked Attorney Bond to research what is needed to be a credit report agency.

**MOTION CARRIED**

**MACKENNA EDWIN**

Mr. Edwin's application was presented to the Board for review, due to him submitting a "Cibill" report instead of a credit report, to determine his eligibility to take the Tennessee Location Manager examination. The applicant is from India and India does not prepare and provide credit reports.

**MOTION** was made by Worrick Robinson and seconded by Elizabeth Trinkler to defer until November 3, 2009 and asked Attorney Bond to research what is needed to be a credit report agency.

**MOTION CARRIED**

**OLD BUSINESS**

There was no Old Business.

**NEW BUSINESS**

**NACARA REPORT**

Attorney Bond reported he attended the NACARA meeting held September 2009 in Bosie, Idaho. He stated the meeting was attended by twelve (12) states. One of the big issues was Debt Settlement companies in which Tennessee has begun to regulate. Another issue was on Debt Buyers. There was also a discussion on the Uniform Collection Agency Application.

There being no further business to discuss the meeting adjourned.

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Bart Howard, Chairman

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Shannon Polen

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Elizabeth Trinkler, Vice Chair

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Worrick Robinson

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James Mitchell